

AMENDED IN ASSEMBLY JULY 17, 2001

AMENDED IN ASSEMBLY JUNE 18, 2001

AMENDED IN SENATE APRIL 25, 2001

AMENDED IN SENATE APRIL 5, 2001

SENATE BILL

No. 647

Introduced by Senators Costa and Monteith
(Principal coauthors: Assembly Members Briggs and Reyes)

February 23, 2001

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 647, as amended, Costa. Alcoholic beverages: licensees: advertising restrictions.

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or pay or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a beer manufacturer's or winegrower's license, or a distilled spirits manufacturer or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent, assignee, or major tenant of a specified facility.

This bill would *extend the authorized exception to a beer manufacturer, as defined, and would extend that exception to an on-sale licensee who is the owner, manager, agent of the owner, assignee of the*

owner's advertising rights, or the major tenant of the owner of an outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Fresno County *or an athletic and entertainment complex, as described, in Riverside County*. The bill would eliminate the application of the exception to an exposition park in Alameda County and instead would extend the exception for an exposition park in San Bernardino County. The bill would also revise and clarify the conditions that are required to be met in order for the exception to apply.

Existing law makes it a misdemeanor for a licensee, subject to the provisions of the bill, to violate existing provisions relating to the purchase of that advertising space or time.

This bill would impose a state-mandated local program by modifying these criminal provisions and by expanding the licensees subject to these criminal provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503.6 of the Business and Professions
- 2 Code is amended to read:
- 3 25503.6. (a) Notwithstanding any other provision of this
- 4 ~~chapter, the holder of a beer manufacturer's or winegrower's~~
- 5 *chapter, a beer manufacturer, the holder of a winegrower's* license,
- 6 or a distilled spirits manufacturer, or distilled spirits
- 7 manufacturer's agent may purchase advertising space and time
- 8 from, or on behalf of, an on-sale retail licensee subject to all of the
- 9 following conditions:
- 10 (1) The on-sale licensee is the owner, manager, agent of the
- 11 owner, assignee of the owner's advertising rights, or the major
- 12 tenant of the owner of any of the following:



1 (A) An outdoor stadium or a fully enclosed arena with a fixed
2 seating capacity in excess of 10,000 seats located in Sacramento
3 County.

4 (B) A fully enclosed arena with a fixed seating capacity in
5 excess of 18,000 seats located in Orange County or Los Angeles
6 County.

7 (C) An outdoor stadium or fully enclosed arena with a fixed
8 seating capacity in excess of 8,500 seats located in Kern County.

9 (D) An exposition park of not less than 50 acres that includes
10 an outdoor stadium with a fixed seating capacity in excess of 8,000
11 seats and a fully enclosed arena with an attendance capacity in
12 excess of 4,500 people, located in San Bernardino County.

13 (E) An outdoor stadium with a fixed seating capacity in excess
14 of 10,000 seats located in Yolo County.

15 (F) An outdoor stadium or a fully enclosed arena with a fixed
16 seating capacity in excess of 10,000 seats located in Fresno
17 County.

18 (G) *An athletic and entertainment complex of not less than 50*
19 *acres that includes within its boundaries an outdoor stadium with*
20 *a fixed seating capacity of at least 8,000 seats and a second*
21 *outdoor stadium with a fixed seating capacity of at least 3,500*
22 *seats located within Riverside County.*

23 (2) The outdoor stadium or fully enclosed arena described in
24 paragraph (1) is not owned by a community college district.

25 (3) The advertising space or time is purchased only in
26 connection with the events to be held on the premises of the
27 stadium or arena owned by the on-sale licensee.

28 (4) The on-sale licensee serves other brands of beer distributed
29 by a competing beer wholesaler in addition to the brand
30 manufactured by the beer manufacturer, other brands of wine
31 distributed by a competing wine wholesaler in addition to the
32 brand produced by the winegrower, and other brands of distilled
33 spirits distributed by a competing distilled spirits wholesaler in
34 addition to the brand manufactured by the distilled spirits
35 manufacturer or distilled spirits manufacturer's agent that
36 purchased the advertising space or time.

37 (b) Any purchase of advertising space or time pursuant to
38 subdivision (a) shall be conducted pursuant to a written contract
39 ~~entered into by the holder of the beer manufacturer's or entered~~
40 ~~into by the beer manufacturer, the holder of the winegrower's~~

1 license, the distilled spirits manufacturer, or the distilled spirits
2 manufacturer's agent and the on-sale licensee.

3 ~~(e) Any holder of a beer manufacturer's or winegrower's~~

4 *(c) Any beer manufacturer or holder of a winegrower's license,*
5 any distilled spirits manufacturer, or any distilled spirits
6 manufacturer's agent who, through coercion or other illegal
7 means, induces, directly or indirectly, a holder of a beer, wine, or
8 distilled spirits wholesaler's license to fulfill all or part of those
9 contractual obligations entered into pursuant to subdivision (a) or
10 (b) shall be guilty of a misdemeanor and shall be punished by
11 imprisonment in the county jail not exceeding six months, or by
12 a fine in an amount equal to the entire value of the advertising
13 space, time, or costs involved in the contract, whichever is greater,
14 plus ten thousand dollars (\$10,000), or by both imprisonment and
15 fine. The person shall also be subject to license revocation
16 pursuant to Section 24200.

17 *(d) Any on-sale retail licensee, as described in subdivision (a),*
18 *who solicits or coerces a holder of a beer, wine, beer manufacturer*
19 *or a holder of a wine or distilled spirits wholesaler's license to*
20 *solicit a holder of a beer manufacturer's or beer manufacturer, a*
21 *holder of a winegrower's license, a distilled spirits manufacturer,*
22 *or a distilled spirits manufacturer's agent to purchase advertising*
23 *space or time pursuant to subdivision (a) or (b) shall be guilty of*
24 *a misdemeanor and shall be punished by imprisonment in the*
25 *county jail not exceeding six months, or by a fine in an amount*
26 *equal to the entire value of the advertising space or time involved*
27 *in the contract, plus ten thousand dollars (\$10,000), or by both*
28 *imprisonment and fine. The person shall also be subject to license*
29 *revocation pursuant to Section 24200.*

30 *(e) For the purposes of this section, "beer manufacturer"*
31 *includes any holder of a beer manufacturer's license, any holder*
32 *of an out-of-state beer manufacturer's certificate, or any holder of*
33 *a beer and wine importer's general license.*

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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